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5 Counsel for Defendant
R.R. STREET & CO., INC.

Pursuant to Civil L.R. 7-12, Defendant City of Eureka (“Eureka”) and Defendant R.R. Street & Co. Inc. (“Street”) hereby stipulate and request judicial action as follows:

WHEREAS, Eureka's Second Amended Complaint (Doc. 140, filed Nov. 9, 2009) is, vis-à-vis Street, substantively identical to Eureka's First Amended Complaint (Doc. 46, filed July 24, 2009); and

WHEREAS, Eureka and Street have previously stipulated—and this Court has previously so ordered pursuant to stipulation (Doc. 101, filed Sept. 8, 2009)—that Paragraph 92 of Eureka’s First Amended Complaint (claiming punitive damages) is stricken as to Street on certain terms and conditions;

1 THEREFORE, Eureka and Street stipulate that

2 (1) Street's answer to Eureka's First Amended Complaint (Doc. 99, filed Sept. 4, 2009)
3 shall be deemed responsive to Eureka's Second Amended Complaint; and

4 (2) Paragraph 102 of Eureka's Second Amended Complaint is stricken as to Street on
5 the same terms and conditions as was previously stricken Paragraph 92 of Eureka's First Amended
6 Complaint.

7 Dated: November 23, 2009.

8 Respectfully submitted,

9 /s/ Eric Grant

10 Eric Grant
Hicks Thomas LLP

11 Counsel for Defendant
12 R.R. STREET & CO. INC.

13 (The filer hereby attests that concurrence in
14 the filing of this document has been obtained
15 from the signatory below.)

16 DAVIDOVITZ & BENNETT LLP

17 /s/ Charles Bolcom
18 MORIS DAVIDOVITZ
CHARLES BOLCOM

19 Attorneys for Defendant, Counter-Complainant,
20 and Third-Party Plaintiff CITY OF EUREKA

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22 Dated: November 25, 2009

23 
24 MAXINE M. CHESNEY
25 United States District Judge